IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

CRP.No. 1036 of 2005()
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WOA.5/2003 of WAKF TRIBUNAL, ERNAKULAM
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REVN. PETITIONER: RESPONDENTS.
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1. A.A.MUHAMMED, AGED 63 YEARS,
S/O.AHAMMED, ARAKKAVEETTIL HOUSE,
VADANAPPALLI P.O. THRISSUR DISTRICT.

2. P.M.SHEREEF, AGED 37 YEARS,
S/O.MUHAMMED, PUTHIYA VEETTIL HOUSE,
VADANAPPALLY P.O. TRICHUR DISTRICT.

3. P.K.MUHAMMED ALI, AGED 54 YEARS,
S/O.MUHAMMED UNNI, PUTHEN VEETTIL KIZHAKKETHIL
HOUSE, VADANAPPALLY P.O. TRICHUR DISTRICT.

4. P.A.MUHAMMED, AGED 42 YEARS,
S/O.ABU, PANIKKAVEETTIL, P.O.EDASSERY THALIKULAM.

5. P.A.MUHAMMED UNNI, AGED 55 YEARS,
S/O.ADIMAKUTTY PAKKAKILLATH HOUSE, VADANAPPALLY
P.O. TRICHUR DISTRICT.

BY ADV. SRI.BABU KARUKAPADATH
SRI.K.A.NOUSHAD

RESPONDENTS: PETITIONER.
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1. A.T.ABDULLA, S/O.ABDUL HAMEED,
THEPPARAMBIL HOUSE, VADANAPPALLY P.O.
THRISSUR DISTRICT.

2. A.T.ABOOBACKER HAJI, AGED 77 YEARS,
S/O.ABDUL MAJEED, THEPPARAMBIL HOUSE,
VADANAPPILLY P.O. TRICHUR DISTRICT.

3. MUHAMMED JAMALUDHIN, AGED 56 YEARS,
S/O.KOYA ALI, THERUATHU VEETTIL, VADANAPPILLY PO

TRICHUR DISTRICT.

4. THE KERALA STATE WAKF BOARD,
ERNAKULAM, REPRESENTED BY ITS SECRETARY.

R1 TO R3 BY ADV. SRI.V.P.REGHURAJ
R4 BY ADV. SRI.A.A.ABUL HASSAN, SC, WAKF BOARD
SRI.S.MUHAMMED HANEEFF
SRI.P.A.ABDUL JABBAR, SC, WAKF BOARD

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 20/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**Kurian Joseph & T.R. Ramachandran Nair, JJ.**

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was compromised and the management of the Wakf was agreed to be conferred on a 13 member executive, a patron and a council consisting of 45 members. It is at this stage, the 1st respondent herein, approached the Wakf Tribunal with an application filed under Section 83(2) of the Wakf Act.

3. The case of the petitioner before the Tribunal is that his grandfather dedicated 6 acres and 61 cents of land along with buildings and other improvements around 100 years back. As per the deed of Wakf and custom, the elder member of the dedicator's progeny has to act as Muthavally and administer the Wakf. The petitioner's father Abdul Hameed and after his death the petitioner's elder brother, 6th respondent became the Muthavally.

4. The petitioners herein filed a detailed objection disputing the averments of the first respondent/petitioner before the Tribunal. Evidence was adduced before the Wakf Tribunal and thereafter the Tribunal remanded the matter again to the Wakf Board. The learned counsel for the revision petitioners contended that the Wakf Tribunal has misdirected itself in setting aside the order passed in Petition No.24/2003 and directing the Wakf Board to consider afresh the matter relating to the administration of the Wakf. The learned counsel for the petitioners pointed out that the

petitioner before the Tribunal failed miserably in adducing evidence in support of his case and the deed of Wakf has not been produced also. Learned counsel for the first respondent submitted that his case is amply supported by Ext.A3 which will show that his father was the Muthavally and now his brother, 6th respondent is the Muthavally and as per the custom, the same was being followed and admittedly the Wakf Board had no occasion to consider such issues when Petition No.24/2003 was decided on the basis of the compromise and hence the present order will not prejudice the rights of any other parties as the matter requires a fresh deeper examination.

5. The Tribunal found that the first respondent is an interested person and going by the facts which have emerged, it could be found that petitioner's father and after his death the petitioner's brother were functioning as Muthavally. It was also found that he has got every right to challenge the order of the Wakf Board being an interested person. The other beneficiaries of the Wakf or the family members of the petitioner or other Mahal members were not given an opportunity to express their views, as the Wakf Board had acted on the compromise without considering the scope of the Wakf deed or the custom of appointing Muthavally as provided in the register of Wakf. Thus, on an overall view of the matter, the

Tribunal rightly felt that the matter should be decided afresh.

6. We do not find any illegality or irregularity in the proceedings of the Wakf Tribunal. The rights of parties are left to be decided afresh and the parties have been given due opportunity to adduce fresh evidence and decide the question.

Therefore, the Civil Revision Petition fails and the same is accordingly dismissed. Since the matter requires an expeditious disposal, we direct that the Wakf Board may take up the matter and finalize the proceedings within a period of four months from the date of receipt of a copy of this order, needless to say, untrammelled by any of the observations and findings either under the order in revision or this order.

**(Kurian Joseph, Judge.)**

**(T.R. Ramachandran Nair, Judge.)**

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